

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
CLAREMONT, CITY OF)	FCC File No. 0001900182
)	
Request for Waiver of Section 90.209 to Allow)	
Use of 20 kHz Bandwidth Emissions)	

ORDER

Adopted: March 31, 2006

Released: April 4, 2006

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us an application filed by the City of Claremont, California (Claremont).¹ Claremont requests a waiver of the Commission's Rules to allow operation with a 20 kHz authorized bandwidth on 470-512 MHz offset channels in the Los Angeles, California area until it is able to obtain funding to change over to narrowband operations.² For the reasons discussed herein, we deny Claremont's waiver request and dismiss its application.

2. *Background.* The City of Claremont is a small city (approximately 13.0 square miles and 35,097 residents) in San Bernardino County. Claremont is the licensee of Public Safety Pool Station KXC905, Claremont, California. It currently is licensed to operate on frequency pairs 506/509.1500 MHz, 506/509.2500 MHz, and 506/509.3875 MHz at four locations in Claremont.³ Although these frequencies are designated for 12.5 kHz bandwidth operations,⁴ Claremont is licensed to operate on these frequencies with a 20 kHz bandwidth.⁵ Claremont proposes to expand its operations by operating on these frequency pairs at three new fixed sites elsewhere in San Bernardino County. Claremont seeks a waiver of the Commission's Rules in order to operate at the new sites with a 20 kHz authorized bandwidth.⁶ Claremont maintains that the waiver is necessary because most of its current radios are

¹ FCC File No. 0001900182.

² See attachment to FCC File No. 0001900182 (Waiver Request).

³ See license for Station KXC905.

⁴ See 47 C.F.R. §§ 90.173(m), 90.209(b)(5).

⁵ Until 1995, these offset channels were not ordinarily available for licensing. When the offset channels were made available, the authorized bandwidth was limited to 12.5 kHz. See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Report and Order and Further Notice of Proposed Rule Making*, 10 FCC Rcd 10,076, 10,094 ¶ 27 (1995) (*Refarming Report and Order*). Claremont was authorized to operate on these frequencies with a 20 kHz bandwidth prior to that time, however, having received a waiver in 1992.

⁶ See Waiver Request at 1. Claremont also proposes to use frequency pairs 506/509.3000 MHz and 507/510.0750 MHz at the new sites, and to add them to one of the existing sites. Because Claremont proposes 12.5 kHz operations on these frequency pairs, however, no waiver is necessary.

designed to operate only in a wideband 20 kHz mode.⁷ Claremont also notes that its mutual aid cooperators such as the Los Angeles Sheriff's Office and the La Verne Police Department operate with wideband radios.⁸ Claremont indicates that it hopes to migrate its operations to a narrowband system "over the next few years," and that this application is "one of the first steps in that direction."⁹

3. *Discussion.* To obtain a waiver of the Commission's Rules, a petitioner must demonstrate either that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case and that grant of the waiver would be in the public interest;¹⁰ or that, in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹¹ We conclude that Claremont has not made the requisite showing for grant of a waiver.

4. The purposes of the bandwidth limitation on the offset frequencies are to reduce the possibility of interference to licensees operating on adjacent wideband channels,¹² and to maximize spectrum use by encouraging the implementation of narrowband or spectrally efficient technology.¹³ We conclude that these purposes would be frustrated by grant of Claremont's request.¹⁴ Our engineering analysis indicates that the new sites proposed by Claremont would significantly extend Claremont's coverage area (more than tripling the covered area on some frequencies) over heavily populated areas to the south and east of the City of Claremont. We believe that such a significant increase in the coverage area would frustrate the underlying purpose of the authorized bandwidth limitations of Section 90.209 because Claremont's 20 kHz bandwidth operations on these 12.5 kHz offset channels could cause interference to licensees operating on adjacent wideband channels. Although Claremont provides concurrence letters from adjacent channel licensees, Claremont fails to demonstrate how its proposed wideband operation on 12.5 kHz offset channels would protect communications on adjacent channels from harmful interference.¹⁵ If Claremont is permitted to extend the coverage area of its wideband operations on 12.5 kHz offset channels, this will increase the area over which adjacent-channel wideband channels become vulnerable to interference.

5. Furthermore, Claremont fails to explain why its circumstances are unique or unusual. No explanation is provided for why Claremont is unable to operate on channels where 20 kHz authorized

⁷ *Id.* As noted *supra*, however, Claremont proposes to operate with an authorized bandwidth of 11.25 kHz on the channels it is adding to the system.

⁸ *Id.*

⁹ *Id.* We note that most private land mobile radio licensees operating on frequencies below 512 MHz will be required to migrate to narrowband (12.5 kHz or narrower bandwidth) technology by January 1, 2013. See Implementation of Sections 309(j) and 337 of the Communications Act as Amended, *Third Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, 19 FCC Rcd 25045 (2004).

¹⁰ 47 C.F.R. § 1.925(b)(3)(i).

¹¹ 47 C.F.R. § 1.925(b)(3)(ii).

¹² See *Refarming Report and Order*, 10 FCC Rcd at 10,094 ¶ 27.

¹³ See *id.*; *Chevron USA, Inc., Order*, 19 FCC Rcd 15,292, 15,296 ¶ 13 (WTB PSCID 2004).

¹⁴ See *City of Emeryville, Order*, 19 FCC Rcd 6152, 6153 ¶ 4 (WTB PSCID 2004) (denying request for waiver of Section 90.209 to permit 20 kHz operations on 12.5 kHz 800 MHz channels).

¹⁵ In addition, we note that one of the letters states that concurrence is "provisional," pending tests and necessary system changes. See letter dated Feb. 8, 2005 from David Hinig, Chief of Police, City of Arcadia, to Captain Paul Cooper, Claremont Police Department.

bandwidth is permitted. Claremont also fails to explain why it would be inequitable, unduly burdensome, or contrary to the public interest for it to comply with Section 90.209 or why complying with Section 90.209 on offset channels would prevent it from communicating with other wideband licensees. Finally, although Claremont states that it intends to transition to narrowband technology, no timetable is provided.

6. *Ordering Clauses.* Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by City of Claremont with respect to application FCC File Number 0001900182 IS DENIED, and application FCC File No. 00019000182 SHALL BE PROCESSED in accordance with this *Order* and the Commission's Rules.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau